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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,232	06/29/2001	David C. Ashby	A-24	9688

7590 12/24/2003  
David C. Ashby  
815 Covington Rd.  
Los Altos, CA 94024

EXAMINER
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ELISCA, PIERRE E

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 12/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/896,232

Applicant(s)

David C. Ashby

Examiner

Pierre E. Elisca

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 6/19/2001
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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**Examiner Pierre Eddy Elisca**  
**United States Department of Commerce**  
**Patent and Trademark Office**  
**Washington, D.C. 20231**

**DETAILED ACTION**

1. This Office action is in response to Application No. 09/896,232, filed on 06/29/2001.
2. Claims 1-19 are pending.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-19 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Feidelson et al. (U.S. pat. No. 6,345,261) in view of Basch et al. (U.S. pat. No. 6,658,393).

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As per claims 1, and 3-19 Feidelson substantially discloses a customer loyalty investment program where monies received by the merchant are placed into an escrow account , comprising: the buyer and seller agreeing on a contract specifying terms and conditions (see., abstract, col 4, lines 39-58, col 13, lines 20-67); the buyer and the seller agreeing (see., abstract, col 7, lines 12-33, col 13, lines 20-67); the buyer depositing a payment in an escrow account (see., abstract, col 9, lines 53-67); the seller withdrawing from the escrow account (see., abstract, col 9, lines 53-67, col 13, lines 53-67, col 14, lines 18-44). It is to be noted that Feidelson fails to explicitly disclose a payment or multi-stage payment plan. However, Basch discloses a financial risk prediction in which installment payment plan have been provided (see., col 1, lines 24-49). Accordingly, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the customer loyalty investment of Feidelson by including the limitation detailed above as taught by Basch because this would allow customers or users to have multiple ways of payment financial debt.

As per claim 2, Feidelson discloses the claimed limitations wherein the step of the buyer and seller agreeing on a contract specifying terms and conditions includes the step of the buyer and seller agreeing to a license for property (see., col 4, lines 39-58, specifically wherein said products or services from participating merchants who have agreed to provide predetermined rebates for such purchases, rebates or license).

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***Conclusion***

5. Any inquiry concerning this communication from the examiner should be directed to Pierre Eddy Elisca at (703) 305-3987. The examiner can normally be reached on Tuesday to Friday from 6:30AM. to 5:00PM.

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9768.

**Any response to this action should be mailed to:**

Commissioner of patents and Trademarks

Washington, D.C. 20231

The Official Fax Number For TC-3600 is:

**(703) 305-7687**

  
Pierre Eddy Elisca

Patent Examiner

**December 12, 2003**